

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BILL GILES MOTOR CO., INC.,  
dba BILL GILES CHEVROLET, *et al.*,

CV-N-04-0567-LRH-VPC

Plaintiffs,

vs.

**STIPULATION DISMISSING COUNTER-  
CLAIMS AND CONSENTING TO LEAVE  
TO AMEND; ORDER**

GENERAL MOTORS ACCEPTANCE  
CORPORATION,

Defendant.

Plaintiff Bill Giles Motor Co., Inc. dba Bill Giles Chevrolet ("Giles Chevrolet") and GMAC LLC fka General Motors Acceptance Corporation ("Defendant") (collectively, "Parties"), by and through their respective undersigned counsel, hereby stipulate, and the Court orders, as follows:

WHEREAS the automatic stay of 11 U.S.C. § 362(a) in Giles Chevrolet's Chapter 11 Case pending before the United States Bankruptcy Court for the District of Nevada ("Nevada Bankruptcy Court") as Case No. BK-N-07-50574-gwz ("Giles Chevrolet Bankruptcy Case") was terminated on

1 November 11, 2007, thereby allowing Defendant to assert counterclaims against Giles Chevrolet.

2 WHEREAS the automatic stay of 11 U.S.C. § 362(a) applicable in the Chapter 11 case filed  
3 by William Giles and Linda Giles also pending before the Nevada Bankruptcy Court as Case No.  
4 BK-N-08-50021-gwz has not been terminated and remains in effect.

5 WHEREAS on February 6, 2008, Defendant filed a Defendant GMAC's Answer and  
6 Counterclaim [Jury Demanded] ("Answer and Counterclaims") in which it asserted several  
7 counterclaims against Giles Chevrolet. (Dkt. #56).

8  
9 WHEREAS on February 28, 2008, Giles Chevrolet's time to respond to the Answer and  
10 Counterclaims was extended to March 14, 2008. (Dkt. #62).

11 WHEREAS on March 14, 2008, Giles Chevrolet filed a Bill Giles Motor Co. Inc's Motion  
12 to Dismiss Counterclaims ("Motion") in which it moved for dismissal of the fraud counterclaim in  
13 the Third Claim for Relief, the negligent misrepresentation counterclaim claim in the Fourth Claim  
14 for Relief, the Nevada RICO counterclaim in the Sixth Claim for Relief and the Federal RICO  
15 counterclaim in the Seventh Claim for Relief of the Answer and Counterclaims. (Dkt. #66).

16  
17 WHEREAS on March 28, 2008, Defendant's time to respond to the Motion was extended  
18 to April 21, 2008. (Dkt. #69).

19  
20 WHEREAS on April 9, 2008, the Nevada Bankruptcy Court appointed Janet L. Chubb, Esq.,  
21 as the Chapter 11 Trustee ("Trustee") in the Giles Chevrolet Bankruptcy Case.

22 WHEREAS, prior to the appointment of the Trustee, the Parties met and conferred regarding  
23 issues related to the Answer and Counterclaims and the Motion and, following their discussions,  
24 agreed as follows, with which the Trustee now concurs and consents:  
25

1           1.       The Nevada RICO counterclaim in the Sixth Claim for Relief and the Federal RICO  
2 counterclaim in the Seventh Claim for Relief of the Answer and Counterclaims shall be dismissed  
3 with prejudice.

4           2.       Defendant shall be granted leave to amend the remaining counterclaims in the Answer  
5 and Counterclaims and shall file an amended Answer and Counterclaims within twenty (20) days  
6 of the date an order approving this stipulation is entered by the Court.

7           3.       Giles Chevrolet reserves the right to move to dismiss any re-pleaded counterclaims  
8 assuming there is a basis for it to do so or to otherwise appropriately respond to an amended Answer  
9 and Counterclaims.  
10

11           4.       The Motion shall be denied as moot.

12  
13                   /s/ Christopher D. Jaime  
14 Christopher D. Jaime  
Attorneys for GMAC

15                   /s/ Sean J. McCaffity  
16 Sean J. McCaffity  
Attorneys for Giles Chevrolet, Inc.

17                   /s/ Janet L. Chubb  
18 Janet L. Chubb  
Chapter 11 Trustee  
19

20  
21                   **IT IS SO ORDERED:**

22                     
23

24                   LARRY R. HICKS  
25 UNITED STATES DISTRICT JUDGE

26                   J:\wpdata\CD\GMAC\Giles Chevrolet\stip.dismiss.amend.v2.wpd

DATED: April 18, 2008